2256.

SUPREME COURT OF THE UNITED STATES.

No. 184.

CATHARINE L. BARBARIE AND AL., HEIRS OF ROBERT FARMER, PLAINTIFFS IN ERROR,

vs.

MANUEL D. ESLAVA AND AL.

IN ERROR TO THE SUPREME COURT OF ALABAMA.

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J. & G. S. Gideon, Printers.

Citation.

THE UNITED STATES OF AMERICA:

To Miguel D. Eslava, the Mayor and Aldermen of the city of Mobile, and Joseph Clements, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Alabama, wherein Catharine Louisa Barbarie, Ann Billup Barde, Daniel R. Brower and Ann B. Brower, his wife, Curtis Lewis and Isabella Lewis, his wife, John T. Lackey and Margaret Lackey, his wife, heirs and legal representatives of Robert Farmer, deceased, are plaintiffs in error, and you are defendants in error, to shew cause, if any there be, why the judgment rendered against the said plaintiffs in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Hon. Roger B. Taney, chief justice of the Supreme Court of the United States, this first day of September, in the year of our Lord one thousand eight hundred and forty-seven.

HENRY W. COLLIER,
Chief justice of the supreme court of Alabama.

UNITED STATES OF AMERICA,
Southern district of Alabama:

I, John Fitts, clerk of the circuit court of the United States for the fifth judicial circuit and southern district of Alabama, do hereby certify, that the plaintiffs in error have given a bond, with sufficient surety, in the sum of two hundred dollars, conditioned for the payment of the costs of this suit in the appellate court, which bond is on file in my office.

In testimony whereof, at office, in the city of Mobile, I have hereunto set my hand, and the seal of said court, this twentieth day of October, A. D. 1847.
[SEAL.]

JOHN FITTS,
Clerk C. C. So. Dis. Ala.

HEIRS OF FARMER
vs.
M. D. ESLAVA et al.

Received 22d October, 1847, and on the 23d day of October, 1847, I served a copy of the within citation on M. D. Eslava, esq., Joseph Clements, and *Blanton McAlpin*, esq'r, mayor of the city of Mobile.

GEORGE HUGGINS,
Sheriff of Mobile county.
By M. J. D. BALDWYN,
Deputy sheriff.

UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the hon. the judges of the supreme court of the State of Alabama, greeting:

Because in the record and proceedings, and also in the rendition of judgment of a plea which is in the said supreme court, before you, or some of you, being the highest court of law or equity of the said State in which a decision could be had in the suit between John Doe, ex dem. Catharine Louisa Barbarie, Ann Billup Barde, Daniel R. Brower and Ann B. Brower, his wife, Curtis Lewis and Isabella Lewis, his wife, John T. Lackey and Margaret Lackey, his wife, heirs and legal representatives of Robert Farmer, deceased, plaintiffs, and Richard Roe, Miguel D. Eslava, the Mayor and Aldermen of the city of Mobile, and Joseph Clements, defendants, wherein was drawn in question the validity of a treaty, or statute of, or an authority exercised under the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, treaties, and laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Constitution, or of a treaty, or statute of, or commission held under, the United States, and the decision was against the title, right, privilege, or exemption, specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said John Doe, ex dem. Catharine Louisa Barbarie, Ann Billup Barde, Daniel R. Brower and Ann B. Brower, his wife, Curtis Lewis and Isabella Lewis, his wife, John T. Lackey and Margaret Lackey, his wife, heirs and legal representatives of Robert Farmer, deceased, as by their complaint appears: We being willing that the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the Monday of next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right, and according to the laws and custom of the United States, should be done.

Witness the Hon. Roger B. Taney, chief justice of the said Supreme Court, this first day of September, in the year of our Lord one thousand eight hundred and forty-seven.

Allowed by HENRY W. COLLIER,
Chief justice of the supreme court of Alabama.

JOHN DOE, ex dem. the heirs of Robert Farmer,
vs.
RICHARD ROE, M. D. Eslava et al., tenants in possession.

Be it remembered, that on the third day of June, in the year of our Lord one thousand eight hundred and forty-six, there was filed in the office of the clerk of the supreme court of Alabama a transcript of record in the above stated case, which is in words and figures following, to wit:

THE STATE OF ALABAMA, *Mobile county:*

Pleas before the Hon. John Bragg, judge of the circuit court for the county and State aforesaid, at a term thereof begun and held on the 4th Monday after the 4th Monday of March, A. D. 1846.

STATE OF ALABAMA, *Mobile county:*

In the circuit court of Mobile county, term of April, 1838.

Declaration.

John Doe complains of Miguel D. Eslava, the Mayor and Aldermen of the city of Mobile, and Joseph Clements, in custody, &c., of trespass in ejectment, &c. For that whereas, heretofore, to wit, on the day of December, 1837, at the county of Mobile, Catharine Louisa Barbarie, Ann Bellup Barde, Daniel R. Brower and Ann B. Brower, his wife, Curtis Lewis and Isabella Lewis, his wife, John T. Lackey and Margaret Lackey, his wife, heirs and legal representatives of Robert Farmer, deceased, had jointly and severally demised to the said John Doe a certain lot or piece of land, in the city of Mobile, described as follows, to wit: Beginning at a post on the line of the claim of William McVoy, at the distance of twenty-four feet north of the northeast angle of Government street and Emanuel street; running thence, north sixty-nine degrees east, (with the line of McVoy) eighty-nine feet seven inches, to a stake, the southeast angle of a brick cotton shed, bearing north seventeen west, distant forty-two feet one inch; thence north seventeen degrees forty minutes, two hundred and twenty-four feet, to the south boundary of the bake-house lot; thence with said south boundary, south seventy-five degrees fifteen minutes west, eighty-nine feet six inches, to the east boundary of Emanuel street; thence with said street, south seventeen degrees forty minutes east, two hundred and thirty-four feet, to the place of beginning; containing twenty thousand four hundred and ninety five superficial feet, with the appurtenances. To have and to hold the same to the said John Doe, and his assigns, from the 4th day of December, 1837, then last past, for and during and until the full end and term of seven years from thence next ensuing, and fully to be complete and ended.

2d count.

And for that whereas, also, on the 20th day of December, 1823, at

the county aforesaid, the said lessees had severally demised other two messuages, lands, and tenements, with the appurtenances, situate in the city aforesaid, to the said John Doe, to have and to hold the same to the said John Doe and his assigns, from the said 20th day of December, 1825, then last past, for and during and until the full end and term of twenty-one years from thence next ensuing, and fully to be complete and, &c. By virtue of which said several demises the said John Doe entered into the said several messuages, lands, and tenements, and became and was thereof possessed, for the said several terms so to him thereof respectively granted; and the said John Doe being so thereof possessed, the said Miguel D. Eslava, the Mayor and Aldermen of the city of Mobile, and the said Joe Clements, afterwards, to wit, on the day of December, 1837, at the county aforesaid, with force and arms, entered into the said several messuages, lands, and tenements above mentioned, with the appurtenances, which the said lessors had respectively demised to the said John Doe, in manner and for the several terms aforesaid, which are not expired, and ejected the said John Doe from his said several premises, and other wrongs to the said John Doe then and there did, to the great damage of the said John, of ten thousand dollars, against the peace, &c.; whence he brings suit, &c.

JOHN TEST,
Att'y for pl'ff.

To Miguel D. Eslava, the Mayor and Aldermen of the city of Mobile, and Joe Clements:

I am informed that you are in possession of, or claim title to, the premises in this declaration of ejectment mentioned, or some part thereof, and I being sued in this action as a casual ejector only, and having no claim or title to the same, do advise you to appear at the next term of the circuit court of the county of Mobile, to be holden at the place of holding said court on the fourth Monday of this present month, April, 1838, by some attorney of that court, and then and there, by rule of the same court, to cause yourself to be made defendant in my stead, otherwise I shall suffer judgment therein to be entered against me by default, and you will be turned out of possession. Yours, &c.

RICHARD ROE.

JOHN DOE, on the demise of the heirs of Robert Farmer,
vs.
Richard Roe, M. D. Eslava, et al., tenants in possession.

Circuit court, Mobile county, Fall term, 1843, 20th Nov., 1843, ss:

This day came the parties by their attorneys, and the defendants moved the court that the said defendant, Eslava, be admitted to *sever* in his plea, which being granted by the court, the said Miguel Eslava enters into the consent rule, confesses lease, entry, &c., and plead not guilty.

JOHN DOE, ex dem. the heirs of Robert Farmer,
vs.
RICHARD ROE, M. D. Eslava et al., tenants in possession.

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RICHARD ROE.

JOHN DOE, on the demise of the heirs of Robert Farmer,
vs.
Richard Roe, M. D. Eslava, et al., tenants in possession.

Circuit court, Mobile county, Fall term, 1843, 20th Nov., 1843, ss:

This day came the parties by their attorneys, and the defendants moved the court that the said defendant, Eslava, be admitted to *sever* in his plea, which being granted by the court, the said Miguel Eslava enters into the consent rule, confesses lease, entry, &c., and plead not guilty.

And on the 11th day of May, 1846, being a day of the said spring term, 1846, the following judgment was rendered, to wit:

JOHN DOE, ex dem. of Catharine Lewis Barbara, Ann Billups Barde, Daniel R Brower and Ann B. Brower, his wife, Curtis Lewis and Isabella Lewis, his wife, John T. Lackey and Margaret Lackey, his wife, heirs and lawful representatives of Robert Farmer, deceased,
vs.
Richard Roe, Miguel De Eslava.

Verdict and judgment.

This day came the parties by their attorneys, and thereupon came a jury, to wit: Charles A. Marston and eleven others, good and lawful men, who, being elected, tried, and sworn well and truly to try the issue joined, on their oaths do say, "We, the jury, find for the defendant." It is therefore considered, that the defendant go hence, and recover from the lessors of the plaintiff his costs by him about his defence in this behalf expended.

And on the 20th day of May, 1846, being also a day of the spring term, 1846, the following order, allowing an appeal in the said cause, was granted, to wit:

JOHN DOE, on the demise of the heirs of Robert Farmer,
vs.
Roe, M. D. Eslava.

This day came the plaintiff, by attorney, and in open court prays an appeal from the judgment rendered at the present term of this court to the supreme court of the State of Alabama, to be holden on the first Monday of June, 1846; which motion is granted, on the plaintiffs entering into bond in the sum of five hundred dollars, with Joseph P. Stanton as security.

Bill of exceptions.

JOHN DOE, ex dem. Heirs of Farmer,
vs.
M. D. Eslava.

Ejectment.

Be it remembered, that on the trial of this cause the plaintiff, to maintain his suit, offered in evidence:

The French patent to Grendell, marked A.

Proceedings from the land office on this claim, B.

The report of the commissioner on this claim, C.

The plaintiff then read the act of Congress of 1822, confirming this claim, and then read the patent D.

The plaintiff then offered evidence to prove that they were the persons named in the patent, in the depositions of Mrs. Beaumont, Mrs. Chastang, and Mrs. Fisher, (and closed,) E.

The defendant then offered the concession to Mrs. Fornerette, in 1788, No 1.

Deed from Mrs. Fornerette to Fontinello, in 1798, No. 2.

Deed from Fontinello to Orsono, in 1801, No. 3.

Deed from Orsono to Eslava, in 1802, No. 4.

The plaintiff objected to Nos. 1, 2, and 3, that they had never been presented to the board of commissioners, and that they therefore could not be read in evidence; which objection was overruled, and the plaintiff excepted.

The plaintiff also objected to Nos. 1, 2, and 3, because they were mere copies from the book of Spanish records, and the originals even not accounted for.

To No. 4 the plaintiff objected, because the paper offered was a mere certified copy from the land office, and did not purport to convey any title to the premises; which objection was overruled, and the said papers, Nos. 1, 2, 3, and 4, were read, and the plaintiff excepted. The conveyance signed by Orsono was produced.

5. The defendant then offered a survey, purporting to be made by Dinsmore, marked 5.

This was objected to, as no warrant or order of survey was shewn, nor any confirmation authorizing the same; which objection was overruled, and plaintiff excepted.

6. Defendant offered what purported to be a patent certificate, founded on this survey, marked 6, and proved that the signatures thereto were genuine to the patent certificate, and the certificate of survey, and that the officers were at the date thereof such as they purport. This the plaintiff objected to, because not sufficiently authenticated, and for the reasons stated in the objections to the survey. The defendant then offered a report from the land office favorable to his claim, marked No. 7.

The claim is found in American State Papers, vol. 3.

The defendant also read the act of Congress of 1822, confirming this claim, and also the act of 1819.

The defendant offered evidence going to prove that Fontinello was in possession of the premises, or a portion of them, in 1801 or 1802; that Orsono afterwards had possession, and built a house thereon; and that, after the date of the bill of sale to Eslava, he (Eslava) exercised acts of ownership over it in making repairs, receiving rent, &c.

3. That Eslava, on his purchase, obtained the possession, and held it till Vobercy entered in 1819; that he rented it out to divers persons; that Vobercy entered while it was rented by Eslava to a tenant named Ward.

In reply to this, the plaintiff offered evidence to shew that one De Vobercy, who had married one of the heirs of Farmer, in the year 1818 or 1819, took possession peaceably of the said premises, claiming to enter in the assertion of said Farmer's title; and that, from that time to the present, the said claim has been before the courts of Alabama, as will be seen in the reports of the cases in 2d Stewart, 115, and 3d Stewart and Porter, and 7th Alabama Reports.

The defendant then, to rebut this possession, produced to the court certified copies of the proceedings against De Vobercy, marked 8, to shew their character, and that De Vobercy was turned out of possession.

No. 4. This evidence was the original Spanish document, signed by Orsono, hereto attached; and the translation thereof, hereto attached, and in the connection, was the proof that Fontinello had been in possession, and had enclosed the lot; that he had sold it to Orsono, who built a house upon the lot; that Eslava, the father of defendant, had been in the receipt of rent, during the Spanish times, from about the time the deed bears date; that he had claimed, and the property had been esteemed as his; that the Government of the United States had paid rent to him, for the use made of it by General Wilkinson after the change of flag; that he rented it to other persons, and the property was in his possession until he was interrupted by De Vobercy, in 1819; that, in the latter part of 1819, De Vobercy entered, and Eslava brought a writ of forcible entry, and received possession and retained it till 1821, when the judgment was revoked and a writ of restitution awarded; that afterwards another writ of forcible entry was brought by Eslava against De Vobercy, and in 1822 a recovery was had and possession recovered; that this possession was retained till the year 1826, when this judgment was revoked, and a writ of restitution awarded.

And Hallett, claiming to hold De Vobercy's title, entered, and the proceedings in an action to try titles on the same day were commenced, and a recovery had with damages; and a writ of restitution was executed under the judgment of the supreme court, referred to in the reports of that case.

The documents five and six were offered together, and the genuineness of the signatures were proven, and the fact that the officers held the appointment specified at the time they bear date.

The report of this claim, and the confirmation of the Government, was also read to the jury. The evidence shews that the heirs of Robert Farmer left this country; and that, during the Spanish times, and until the return of De Vobercy, none were known or heard of in the province of West Florida as claimants of this lot.

It was in evidence that Orsino, at the time of the deed to him, and from him to Eslava, was the Spanish commandant at Mobile.

Before the jury retired from the bar to consider of their verdict, the court charged them as follows: that, in considering this case, they were not to regard the title from the United States to either party, as both were confirmed equally, and the confirmations balanced each other, and to decide the controversy, the jury must look to the other evidences of title. The court further instructed the jury that, if they believed the defendant, Eslava, and those under whom he claimed, had been in possession more than 20 years before the suit was brought under claim of title, it would be sufficient for his defence; and that the conveyances produced would be sufficient to connect the different possessions together. The court further instructed the jury that the conveyance to Mrs. Fornerette shown, if no adverse or other possession appeared, and no reason

to the contrary shewn in evidence, and the possession was found in her vendee, they would be authorized to presume, if they thought proper, that she was in possession under the concession.

The court further charged, that if they believed that the plaintiff had been out of possession since the death of Farmer, and until the year 1819, that though De Vobercy had then entered, yet, if he was dispossessed by Eslava by recovering at law with damages, that having been out of possession such length of time, the entry of De Vobercy was that of a trespasser, and his possession would not prevent the statute of limitations from continuing to run on account of Eslava, he having been restored by competent tribunals.

Before the jury retired to consult on their verdict, the counsel for the plaintiff requested the court to charge the jury as follows:

That in this state the jury would not be authorized to presume a grant in favor of a direct adverse possession short of thirty years.

That the title of defendant, before confirmation, was a mere equity, and this is not of that character, of color of title, which would support an adverse possession.

That, in order to sustain the defence under the statute of limitations, there must be 20 years actual, uninterrupted, adverse possession, and this possession must be clearly defined; which the court charged, but added, the jury may infer the possession, if they pleased, from the transmission of title from Fornerette to Fontinello, and from Fontinello to Orsono, and to this defendant.

That the proper concession to Mrs. Fornerette, her deed to Fontinello, and his deed to Orsono, cannot be received by the jury as evidence of title, so as to connect the defendant's title under his confirmation with them, nor can they look to them as evidence of sales, nor as proof of the consideration, nor as proof to the boundaries claimed.

That if the jury find that De Vobercy entered upon the premises in 1818 or 1819, with intent to claim, and did claim, in right of his wife as one of the heirs of Farmer, and held possession under said title, during those portions of time he was successful in litigation, that this interrupted the possession; and in order to sustain a title under the statute there must be proof of a clear adverse possession of twenty years prior to the time of the interruption; which the court refused, and the court charged that De Vobercy was a trespasser.

That neither under the claim of Mrs. Fornerette, nor under the act of Congress, can the defendant claim more than sixty feet front, and that the survey produced by the def't cannot control this.

That if defendant has put in a plea for eighty-four feet, and shews title for but sixty feet, without designating the precise location of the sixty, the plaintiff must recover. That the paper title produced by the plaintiff is better than the paper title of the defendant.

That the act of 1822, confirming defendant's title, relates only to the title as presented to the commissioners, to wit, the deed from Orsono in 1802, while the same act confirms the title of plaintiff, and which relates back to the patent of 1757.

That the legal construction of the bill of sale from Orsono to Eslava gives to Eslava no right to the land in controversy.

That if the defendant claims under the title of Mrs. Fornerette, he cannot acquire by the statute of limitations more than the title calls for, which is sixty feet front.

To all of which charges and refusals to charge by the court, the plaintiff by his counsel excepts, and prays that his bill of exceptions may be signed and sealed by the court, which is done accordingly in term time.

J. BRAGG. [SEAL.]

Certificate.

STATE OF ALABAMA, *Mobile county.*

I, Augustus Brooks, clerk of the circuit court for the county and State aforesaid, do hereby certify, that the foregoing transcript is a full, perfect, and complete record of all the proceedings had in the above entitled cause, as the same remains on file in my office.

In testimony whereof I have hereto set my hand, and affixed the [SEAL.] seal of said court, this 27th day of May, A. D. 1846.

A. BROOKS, *Clerk.*

Exhibit B.

To the register and receiver of public moneys, acting as commissioners of land claims at Jackson Court-house, Mississippi.

GENTLEMEN: You are hereby notified, that the following claims of the heirs of Robert Farmer are now revived, and additional evidence offered in support thereof, to wit: a lot in the city of Mobile, situate opposite to Fort Charlotte, and running fourteen toises (eighty-four feet) front on Government street, and running back to the public bakehouse, (about three hundred feet,) which said lot was granted by the French Government, by patent bearing date 19th April, 1757, to Mr. Grindell, who by deed bearing date 22d August, 1757, sold it to Bertrand Guichandene, who by deed of sale bearing date 18th March, 1759, sold it to Count Pascher, by whom by deed, lost by time or accident, it was transferred to Robert Farmer, who according to the evidence hereto annexed inhabited the same upwards of twenty years, and which is now in my possession in right of the heirs of said Farmer. A translation of the patent is recorded in book C, page 1842, in the books of the former commissioner, but no conveyances under said patent. Therefore, I respectfully request that the said papers herewith filed may be recorded in the order in which they are now presented.

2dly. Claim to a plantation situate on the east side of the river Tensaw, bounded on the north by a plantation formerly belonging to Peter de Forge, and running down to the river several miles according to the evidence of Charles Roberts, recorded in book B, page 202, the title papers whereof are recorded in said book B, from page 192 to page 202. The plantation referred to on Mr. Roberts' testimony seems to have been composed of several smaller tracts, purchased from different

persons at different times. The additional testimony offered in support of all the above received claims is that of Mrs. Bennett and John Baptiste Trainen, hereto annexed.

LOUIS G. DE VAUBERCY.

June 20th, 1820.

A.

Before the royal notary of Mobile, in the province of Louisiana, in the presence of the undersigned witnesses, personally appeared Wm. Philip Gonjon De Grindell, chevalier of the military order of St. Louis, captain [of] the Swiss troops at Mobile, who by these presents hath sold and transferred forever, with guaranty against all demands whatsoever, to Mr. Bertrand Guichanden, surgeon major at the same place, in order that he, his heirs, or assigns, may enjoy the same peaceably in full property, as a thing belonging to him, a house situate on a part of a lot which remains after the public square, called the "Direction," in front of the fort, containing about fourteen toises in front on the said square, with the depth which remains after that of the King's bakehouse. The said house being built on posts and divided into two large rooms, with a small chamber at each end, having a double brick chimney covered with mud, with a gallery all round, and a kitchen in the yard constructed out of pickets, and covered brick chimney over, and with another building on the side of it also covered, &c., in a wood, on the situation in which the same now is, and may be found. The above sale made for and in consideration of the sum of three thousand livres, which the said Grendell acknowledges to have received in cash from the said Guirschenden, and acquits him and all other persons from the payment thereof; promises, &c., obliging, &c., renouncing, &c. Made and executed at the office in Mobile, on the 22d day of August, 1757, and signed in the presence of Messrs. Daniel Mitch and James Miegroy, witnesses, who were required to be present. Who have signed with the undersigned notary.

GRINDELL.
DUPERNELL, *Notary*.

MEGROY,
MICHE.

CITY OF MOBILE, *9th June*, 1820.

STATE OF ALABAMA, *Mobile county:*

Personally appeared before me, Edward Hall, one of the justices of the quorum for said county, John Baptist Trenier, who being duly sworn, deposes and says, that Robert Farmer's plantation on the river Tensaw is bounded on the north by a plantation of Peter De Forge, the south by a plantation of Sabourdine, on the west by the river Tensaw; that there were at least fifty working hands (negroes) on the said plantation of Robert Farmer; he, the deponent, recollects the working of said plantation ten years before the Spaniards took possession, and about six years after, at which time the family were driven off by the Indians and the buildings burnt. And that deponent further says,

that the said Robert Farmer lived on a lot in front of the fort, bounded in the rear by the public bakehouse in the city of Mobile, which lot it was generally understood to belong to Robert Farmer, and that he lived on said lot upwards of twenty years; at the taking of the town by the Spaniards his house on said lot was burnt, and that the family removed to the above mentioned place on the Tensaw; that Robert Farmer died in the town of Mobile. That it is the same lot of which Lewis De Vaubercy, the son-in-law, is now in possession in right as the heir of Farmer. In testimony whereof the said John Baptiste Trenier has hereunto set his hand, this 19th day of June, 1820.

His
JOHN B. X TRENIER.
mark.

Sworn to and subscribed before me, 9th June, 1820.
EDWARD HALL, *U. Q.*

CITY OF MOBILE, 10*th May*, 1820.

STATE OF ALABAMA, *Mobile county:*

Personally appeared before me, Edward Hall, one of the justices of the quorum for said county, Mary Bennett, formerly Mary Deforge, at present an inhabitant of the city of New Orleans, now on a visit to this place, who, being duly sworn, deposes and says, that she lived with her father, Peter Deforge on the Tensaw river, about thirty-nine miles from this place on a plantation belonging to her father; that she was born on said plantation in the year one thousand seven hundred and twenty, and lived on said plantation till she was eleven years of age; that the land below her father's plantation belonged to Robert Farmer, and [was] bounded on the lower end by land of William Suprance. The deponent further says, that the lot of land now claimed by Miguel Eslava was in the possession of Robert, opposite the custom-house, fronting the fort, and bounded in the rear by the public bake-house; that Farmer lived on said lot; that his house was burnt down by the British. It was always understood that the lot belonged to Robert Farmer at the time deponent lived in Mobile, which was in the year 1787.

MARY BENNETT.

Sworn to and subscribed before me, this 10th day of May, 1820.
EDWARD HALL, *J. Q.*

C.

Exhibit C.

Register of evidence collected in relation to lots in the town of Mobile.

No. 27. By whom claimed, heirs of Robert Farmer. Original claimant, Grendell. Nature of claim, and from what authority derived, French patent. Date of claim, 19th April, 1757. Quantity front, in feet; 84 deep; area in feet. Where situated, Government street. By whom issued, French Government. Cultivation and inhabitation, a

house built, in which R. Farmer lived for twenty years, and until the Spaniards took possession of the country.

LAND OFFICE, *Jackson Court-house, July 11th*, 1820.

W. BARTON, *Reg.*
WM. BARNETT, *Rec'r.*

Attest: JOHN ELLIOTT, *Clerk.*

No. 5.

Transcript from the register of certificates granted for claims to lots in the town of Mobile, in the district of Jackson Court-house, Mississippi, contained in report No. 7 of the register and receiver on the the town lots, and confirmed by virtue of the act of Congress, passed 8th of May, 1822, entitled An act confirming claims to lots in the town of Mobile, &c.

Number of certificate, 15. Number of claim, 27. Number of report, 7. Present claimants, heirs of Robert Farmer. Original claimant, Grendell. Nature of claim, French patent. Quantity conferred, front, 84 deep, area; where situated, Government street, town of Mobile.

Register's department, Land office, Jackson Court-house, Mississippi, January 1st, 1823.

W. BARTON, *Agent.*

Register of locations issued for confirmed claims to lots in the city of Mobile.

Date of warrant, 15th November, 1827. No. of warrant, 401. Number of certificate, 15. Number of claim, 27. Number of report, 17. Quantity. Claimant, heirs of Farmer. Where situated, in Mobile. By whom located. In what manner located. In conformity to the extract of title attached, say 14 toises front, running to the lot of the bake-house, formerly known to be the King's bake-house.

LAND OFFICE, ST. STEPHEN'S, ALA.,
16*th November*, 1842.

I hereby certify, that the annexed and foregoing transcript of the claim of the heirs of Robert Farmer is a correct copy from the book of records of cases acted on by the commissioners, William Crawford and W. Barton, and Wm. Barnett, register and receiver, as the same is found in this office.

Witness my hand and private seal, having no seal of office.

JAMES MAGOFFIN, [SEAL.]
Register.

Patent.

The United States of America, to all to whom these presents shall come, greeting:

Whereas there has been deposited in the General Land Office a certificate (No. 15) of the register and receiver of the land office at St. Stephen's, with a plat of survey of the lot of land therein mentioned, under

the provisions of the act of Congress approved on the eighth day of May, one thousand eight hundred and twenty-two, entitled "An act confirming claims to lots in the town of Mobile, and to land in the former province of West Florida, which claims have been reported favorably on by the commissioners appointed by the United States," as the claim of the heirs of Robert Farmer, in right of Philip Gonjon de Grondel, numbered twenty-seven, in abstract numbered seven of the register and receiver, and as being bounded and described, as follows, to wit: beginning at a post on the line of the claim of William McVoy, at the distance of twenty-four feet north of the northeast angle of Government street and Emanuel street, running thence, north sixty-nine degrees east, (with the line of McVoy,) eighty-nine feet seven inches, to a stake, the southwest angle of a brick cotton-shed, bearing north seventeen degrees west, distant fifty-two feet one inch; thence, north seventeen degrees forty minutes west, two hundred and twenty-four feet, to the south boundary of the bake-house lot; thence with said south boundary, south seventy-five degrees fifteen minutes west, eighty-nine feet six inches, to the east boundary of Emanuel street; thence with said street, seventeen degrees forty minutes east, two hundred and thirty-four feet, to the place of beginning; containing twenty thousand four hundred and ninety-five superficial feet, English measure, and being a lot in the city of Mobile, in the State of Alabama, in township four south, of range one west, in the district of lands subject to sale at St. Stephen's, Alabama: Now, know ye, that the United States of America, in consideration of the premises, and in conformity with the said act of Congress, have remised, released, and forever quit-claimed, and by these presents do remise, release, and forever quit-claim, unto the said heirs of Robert Farmer, and to their heirs, the said land above described, subject to any just claim or claims to all and every part thereof, all and every person or persons, bodies politic or corporate, derived from the United States, or from either the British, French, or Spanish authorities: To have and to hold the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, subject to any such just claim or claims as aforesaid, unto them, the said heirs of Robert Farmer, and to their heirs and assigns forever, so that neither the United States, [n]or any other person claiming under them, except as is provided in said act and the reservation aforesaid, may or can set up any right or title thereto.

In testimony whereof, I, Martin Van Buren, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the fourteenth day of November, in the year of our Lord one thousand eight hundred and thirty-seven, and of the independence of the United States the sixty-second.

MARTIN VAN BUREN,
By A. VAN BUREN,
Secretary.

By the President: JOSEPH S. WILSON,
Acting Recorder of the Gen'l Land Office, ad. in.

No. 4.—(4.)

Deposition of witnesses sworn and examined the 2d day of September, A. D. 1841, at the house of John Baptiste Jusan, of Mobile county, under and by virtue of the annexed commission, issued out of the circuit court of Mobile county, in a certain cause therein depending, in which John Doe, ex dem. heirs of Robert Farmer, are plaintiffs, and Richard Roe, Mayor and Aldermen of the city of Mobile, Joseph Clements, and Miguel D. Eslava, tenants in possession, are defendants.

Clarissa F. Chastang, being duly sworn and examined on the part of the plaintiff, doth depose and say:

1st question. Were you acquainted with Robert Farmer? Answer. Yes.

2d question. Where did he reside at the time you knew him? Answer. In front of the fort, in Mobile.

3d question. How many children had he at the time you knew, and what were their names? Answer. Five children; two sons and three daughters; one son was named Thomas; do not recollect the name of the other son; the daughters were named Nancy, Betsy, and Catharine.

4th question. Who did the daughters marry? Answer. Nancy married Mr. Barde, when she left Mobile; the others were young and unmarried; has heard that one of the daughters married to a Mr. De Vobercy; has never seen him.

5th question. Have you ever heard of the two sons since they left here? Answer. Does not recollect that she ever heard what become of them.

6th question. When did you know Mr. Farmer, and when did he die? Answer. I knew him at the time the British had possession of Mobile, and that he died about the time the Spaniards took possession.

7th question. Do you know where the daughters Catharine and Nancy now live, or where they have lately lived? Answer. Has heard that, in 1815, they lived in New Orleans. I got this information in New Orleans, and do not recollect to have heard any thing of them since that time.

8th question. Do you know the name of any of the children of the daughters of old Mr. Farmer? Answer. No.

9th question. How old are you? Answer. Seventy-two.

10th question. Do you know any thing further in relation to old Robert Farmer, and his children? Answer. No.

Her
CLARISSA F. X CHASTANG.
mark.

Sworn and subscribed to before me, this 2d day of September, A. D. 1841. EDWIN RUST, [SEAL.]
Commissioner.

No. 5.—(5.)

Genevieve Fisher, a witness produced, sworn, and examined on behalf of Robert Farmer's heirs, in answer to the interrogatories pro-

pounded to *him*, answers, that she was acquainted with Robert Farmer; that he had a wife and children; that he lived in Mobile, in a house fronting the fort; that he resided south of the King's bake-house; that she does not know the name of the street. Says she recollects one of the names of one of Robert Farmer's daughters; thinks the oldest one was named Nancy; that said Farmer had three girls and two boys. Says that Madame De Vobercy was a daughter of said Farmer. Says that Curtis Lewis married a daughter of Mr. and Mrs. De Vobercy. Says she recollects that the family of Mr. De Vobercy lived in the house fronting the fort and south of the King's bake-house; that Major Farmer was a major in the English army; that said Farmer died in his house, in the lot above described, in English times; that when the Spaniards came to take Mobile, the English burnt the houses around the fort, and burnt the house of Major Farmer, above described.

Cross examined on behalf of Miguel De Eslava and Joseph Clements, and the Mayor and Aldermen of the city of Mobile, by W. M. C. Easton, their attorney. Says that Nancy was not married to Mr. De Vobercy, but to a French officer named Barde. Says she knew Madame De Vobercy when she (Madame De Vobercy) was a girl; she saw Mr. and Madame De Vobercy when they first arrived in Mobile; cannot say how long they were married before she saw them; does not know where they were married, whether in Europe or in this country; does not know how Mr. De Vobercy came to live in the house above referred to.

Question. You state that the house in which De Vobercy lived in was the one that Orsono lived in. Did, or did not, Orsono build that house? Answers, that Orsono built that house; that Major Farmer died before the time of burning the houses above referred to; cannot say how long before; does not know where the family of said Farmer went after the invasion of the Spaniards; they went away immediately after the invasion of the Spaniards; Madame De Vobercy was the only one of said Farmer's family that returned to Mobile; does not recollect whether she came back before the Americans took possession, or after.

Re-examined in chief. Does not know whether the French officer's name referred to was Barn or Barde; does not [know] how it was spelled; that Orsono built the house on the same spot that Farmer's was burnt on.

Her
GENEVIEVE X FISHER.
mark.

No. 3.—(3.)

Deposition of Madame Catharine Beaumont.

Witness, sworn and examined on the 10th day of August, in the year of our Lord 1842, at the house of said witness, corner of Cora and Pert street, in the city of New Orleans, and State of Louisiana. By virtue of a commission issuing from the circuit court of Mobile county, and State of Alabama, to me directed, for the examination of the said witness, in a certain action of ejectment depending in said court,

wherein John Doe, ex dem. of the heirs of Robert Farmer, is plaintiff, and Miguel De Eslava, the Mayor and Aldermen of the city of Mobile, and Joseph Clements, are defendants, to be used in evidence on the trial of said cause.

The said witness, Catharine Beaumont, being first duly sworn, upon her oath deposeth as follows: That, to the best of her knowledge and belief, she has seen Major Robert Farmer, but was too young to remember much or any thing of his person, on the Tensaw river; she has some recollection of Major Robert Farmer's family, but was well acquainted with Mrs. Farmer, Major Farmer's wife, and children, in London. Her opportunity of being acquainted with them was, that she resided near them. She says that she does not remember them at Mobile, when they resided there; does not know when the family came to Mobile. She says that her mother and Mrs. Farmer, and others, have often told her that they left Mobile at the time of the Spanish war, or what was called Don Galvez' war; they were compelled to leave Mobile by the Spaniards, and the Spaniards took possession of their property; Galvez took possession of Major Farmer's house for his quarters. She says that Robert Farmer, sen'r, is dead; died in Mobile, and was buried in the fort; when he died he left a family, consisting of his wife, three daughters, and two sons. He left five children; the names of the children were Robert, Nancy, Betsy, Catharine, and Thomas; she knows by hearsay that Catharine and Nancy are living; she knows that Betsy is dead, and by report that Robert and Thomas are dead; Nancy is residing near Philadelphia, Pennsylvania, and Catharine in New York; they have resided there many years; Nancy, Betsy, Catharine, and Robert were married; Nancy married Captain Barde, Betsy married Mr. De Vobercy, Catharine married Mr. Otto Barbery, and Robert married a Quaker lady in Philadelphia; Mr. De Vobercy, Capt. Barde, and Mr. Barbary are all dead; the name of his grandchild was Elizabeth De Vobercy, the daughter of Mr. and Mrs. De Vobercy. The witness states that she resided near the family in London, and was very intimate with the family.

To the second interrogatory on the part of the plaintiff, she answers and says, that she was not acquainted with his property at the time of his death. The witness says that she was too young at the time to know whether he owned property or not; has heard her mother and others say that he owned the plantation where he resided, on the Tensaw river; and also houses and lots in Mobile. She does not know where abouts in the city of Mobile the property was situated. Does not know whether any part of it lies on Government street. Does not know where Government street is. She heard her mother, Mrs. Farmer, and the family, talk of their houses, and the King's bakehouse, in Mobile, and was told that he had the best house in Mobile; has heard the family say there were buildings on the lots. Does not know who took them away after his death. Does not know the value of the property at or near his death. Does not know the location of the lot near the King's bakehouse, or its relative situation to the fort. Has always un-

derstood from her mother, the family, and others, that Major Robert Farmer was a native of North America, and was related to the Lawrence, Kane, and Davis families, in New York. Mrs. Farmer was born in Yorkshire, England. Major Farmer, she thinks, was related to Commodore Truxton, of the American navy; has had conversations with the family more or less of their pedigree during her life. Does not know of any particular time. C. BEAUMONT.

I, Loyal Case, do hereby certify, that the deposition of Madam Catharine Beaumont, the witness within named, was duly taken before me, in manner and form, and at the time and place within mentioned. LOYAL CASE.

No. 1.

To his Excellency Stephen Meiro, colonel of the royal armies, political and military governor of the city of New Orleans and province of Louisiana, &c.

Elizabeth Forment, an inhabitant within the jurisdiction of Mobile, with due respect prays your excellency, and says, that there is in this town a lot of ground, containing ten toises in breadth by twenty-six toises in length, situate on Government street, opposite the house and lot of Anthony Narbonne, formerly belonging to Mr. Farmer, which lot has not until the present time been claimed by the proprietor or by any agent in his behalf. In consideration of all which, your petitioner humbly hopes, from the goodness of your excellency, that you will be pleased to grant her the lot above described, and to order the necessary titles to be issued from the secretary's office of this government; wherefore your petitioner entreats your excellency may be pleased to grant the lot prayed for, and, in so doing, your petitioner shall record many thanks. Mobile, fifteenth of February, one thousand seven hundred and eighty-eight.

(Signed,) ELIZABETH FORNENT.

I, Viginti Folch, captain of the regiment of Louisiana infantry, political and military commandant of the town of Mobile and its district, &c., do hereby certify that, from the information which I have received from various inhabitants of this place, it appears that the facts stated by the petitioner are correct and true. Mobile, March first, one thousand seven hundred and eighty-eight.

The commandant of Mobile will put the petitioner in possession of the lot of ground for which she solicits a grant at the spot described in the preceding memorial, provided the same is vacant, and without causing injury to a third person. Let the proceedings of the survey be made out in connection herewith by the surveyor of the province, to be transmitted to me, in order to provide the petitioner with the corresponding title in form.

Signed, STEPHEN MIRO. [SEAL.]

No. 2.—*No.* 2.

Know ye, by this public instrument, that I, Elizabeth Fornent, an inhabitant of this city, do acknowledge that I sell really and bona fide to Francis Fontinella, of the same city, a lot of ground of sixty feet front and a hundred and twenty six in depth, situate on Government street, bounded on the north by the King's bakery, on the northeast by the house and lot of the late John Joyce, on which the commandant now resides; and on the south fronting the fort, being the same lot which belongs to me by a grant made to me by the governor general of the provinces, as will more fully appear by reference to the said grant, now deposited in the archives of this place; and I sell it to him free of mortgage or incumbrance for the sum of fifty dollars, to me in hand paid, the receipt whereof is hereby acknowledged, wherewith I am satisfied. In virtue whereof, I surrender and make over my right, title, and interest which [in] the said lot I had and held, the whole of which I renounce, yield, and transfer to the purchaser, and to his heirs and assigns, that as his own he may possess, exchange, sell, or alienate at his pleasure, by virtue of this writing, which in his favor I grant in lieu of real delivery, which is in testimony of his having acquired the said estate, without it being required of him any further proof of his said *said* acquisition, from which I exempt him; binding myself for the security, legality, and validity of this sale in every lawful form. And I, the purchaser, being present at the passage of this instrument of writing, do hereby accept the said sale in my favor of said lot for the sum above specified, and in conformity to the condition above stipulated, acknowledge myself to be satisfied, for which I give a formal receipt. In testimony whereof this is dated in Mobile, this 14th day of June, 1798. And I, Manuel de Larges, military and political commandant of this place, with two witnesses, assistants, who act with me for want of a notary public.

I certify, that we know the contracting parties, who acknowledged and signed it in the presence of the undersigned witnesses, and I, the above stated commandant.

Signed, ISABELLA FORNENT.
Signed, FRANCIS FONTENELLA.
Witness, JERONIMO YEBOSA,
DIEGO ALVAREZ.
Signed, MANUEL DE LANZOS.

No. 3.

Know all ye by these presents, that I, Francisco Fontanella, inhabitant of this place, do in reality bargain and effectually sell unto Don Joaquim De Orsono, captain of the regiment of Louisiana infantry, a lot of one hundred and fourteen feet in front, and one hundred and twenty-six in depth, bounded north from the King's bakehouse, east with that belonging to the late John Joyce, south fronting the fort, west by St. Manuel street, do bargain and effectually sell unto the aforesaid, with the lumber of a house, including all in and out passages, uses, &c., free from mortgage and of all oppression, for the sum of two

hundred dollars in cash Therefore I do deliver, renounce to all claims, subjecting myself to the approved laws of the country, and therefore, by a formal receipt, do separate myself from all right of property, possession, and lordship, or any other claims whatever on said lot. The whole of which I do cede, renounce, and transfer to the purchaser, his right to hold and keep as his own, sell, exchange, and by virtue of this promise the right of possession unto the aforesaid purchaser, binding myself, my property, rents, present and future, submitting also myself to the justices of H. M. compelling me to the accomplishment thereof. The receipt of which being acknowledged by the purchaser, and my rights, privileges, &c., given up in favor of said purchaser, the said lot and lumber, at the price aforesaid. In testimony of which, the date of this bill of sale, made in presence of witnesses. Mobile, 31st day of August, 1801.

I, Don Cayetano Perez, lieutenant of the fixed regiment of Louisiana, political and military commander per interim, accompanied by two witnesses of assistance, both parties having signed with the witnesses of assistance, and I, the commander, do attest to the within.

FRANCESCO FONTINELLA.

JOAQUIM M. DURENA, Witnesseth—
MIGUEL ESLAVA,
RAFAEL HIDALGO.

Before me, CAYATENA PEREZ.

I, the undersigned, (keeper and translator of the Spanish records,) do certify, that the within is a true translation (to the best of my knowledge) from the original in this office. Mobile, 12th August, 1822.

J. C. LEON. [SEAL.]

No. 4.—(4.)

To the commissioner of land claims east of Pearl river.

SIR: Please take notice, I claim a lot and house by virtue of a bill of sale to me by Joaquim De Orsono, captain of the Louisiana regiment of infantry, civil and military commandant of Mobile, dated the 20th June, 1802.

KENNEDY & OSBORN,
Attorneys and agent for Don Miguel Estava.

LOUISIANA, *East of Pearl river, May 24th*, 1814.

Know all men by these presents, that I, Don Joaquim De Orsono, captain of the regiment of infantry of Louisiana, commandant civil and military of this town of Mobile, declare to have sold to Don Miguel Eslava the house pertaining to me, wherein I dwell, upon the lot of ground that I bought of Don Francis Fontanello, and built at my own expense; the which I concede to him, free from all incumbrance, for the sum of two thousand dollars, which I have received down, to my full satisfaction; in virtue of which I yield the right of action and ownership that to the said house I had and held, and cede and transfer the whole to the purchaser, who his right shall have, that as his own he may sell or transfer it at his pleasure, without any person opposing his determination; and that it may thus be evident at all times, and for the time being,

I make him another sale of the same tract, and sign the present for his security, in the afore town of Mobile, the thirtieth day of the month of June, one thousand eight hundred and two.

By duplicate, JOAQUIM DE ORSONO.

Test:

THOMAS PRICE,
CAYETANO PEREZ.

LAND OFFICE, ST. STEPHEN'S, ALA.,
1*st May*, 1829.

I hereby certify, that the annexed transcript, page 1 and 2, are correctly copied from the book of record of claims laid before the commissioner, William Crawford, and acted on by him; page 3, from the book of reports made by the said commissioner; and page 4, from the record of reports by the register and receiver, acting as commissioner, as the same is found in this office.

Witness my hand and seal, (private, having no seal of office,) this 1st day of May, 1839.

JAMES MAGOFFIN, [SEAL.]
Register.

No. 5.

[For plat, see original.]

SURVEYOR'S OFFICE, *Land district east of the Island of New Orleans.*

In conformity with a certificate, No. 4, warrant No. 235, claim No. 79, report No. 11, from the board of commissioners at Jackson Court-house, I have surveyed for Don Miguel Eslava a lot of ground within the city of Mobile, in township No. 4, range No. 1, west of the basis meridian, bounded as follows: Beginning at the northeast angle of Government and St. Manuel street, and extending northward, on St. Manuel street, two hundred and twenty-six feet, and eastward, on Government street, one hundred and twelve feet. The copy of the conveyance attached to the warrant calls for 114 feet front on Government street, but it could not be found without interfering with Joyce's Duplantines lot, containing 25,312 superficial feet, of Parisian measure, and having such shape, form, and marks as are represented in the above description.

The twenty-ninth day of October, 1823.

SILAS DINSMORE,
Principal deputy surveyor.

No. 6.—*Certificate No.* 5.

LAND OFFICE, JACKSON COURT-HOUSE,
3*d September*, 1824.

In pursuance of an act of Congress passed on the 8th day of May, 1822, entitled "an act confirming claims to lots in the town of Mobile,

&c., we hereby certify, that the claim of Miguel Eslava, original claimant Joaquin De Orsona, No. 79, in the report of the commissioners, No. 11, has been confirmed under the said act, and that, on the 29th day of October, 1823, the said claim was regularly surveyed, containing 25,312 superficial feet, of Parisian measure, and designated as a lot of ground within the city of Mobile, in township No. 4, range No. 1, west of the basis meridian, bounded and described as per plat, herewith authenticated, by Silas Dinsmore, principal deputy surveyor for the said district.

Now, therefore, be it known, that on the presentation of this certificate to the Commissioner of the General Land Office, the said Miguel Eslava shall be entitled to receive a patent for the above described lot.

WM. HOWZE, *Register*.
G. B. DAMEROU, *Receiver*.

No. 7.

To the commissioner of land claims east of Pearl river.

SIR: Please to take notice, that I claim a lot and house by virtue of a bill of sale to me made by Joaquin De Orsono, captain of the Louisiana regiment of infantry, civil and military commandant of Mobile, dated the 30th of June, 1832.

KENNEDY & OSBORN,
Attorneys and agent for Don Miguel Eslava.

LOUISIANA, EAST OF PEARL RIVER,
May 24th, 1814.

Know all men by these presents, that I, Don Joaquin De Orsono, captain of the regiment of infantry of Louisiana, commandant, civil and military, of this town of Mobile, declare to have sold to Don Miguel Eslava the house pertaining to me, wherein I dwell, upon the lot of ground that I bought of Don Francis Fontinella, and built at my own expense, the which I concede to him, free from all incumbrance, for the sum of two thousand dollars, which I have received down, to my full satisfaction; in virtue of which I yield the right of action and ownership, that [in] the said house I had and held, and cede and transfer the whole to the purchaser; who his right shall have, that as his own he may sell or transfer it at his pleasure, without any person opposing his determination; and that it may thus be evident at all times, and for the time being, I make him another sale of the same tenor, and sign the present for his security, in the referred town of Mobile, the thirtieth day of the month of June, one thousand eight hundred and two.

By duplicate. JOAQUIN DE ORSONO.

Test:

THOMAS PRICE,
CAYETANO PEREZ.

Report No. 11.

Register of claims to land in the district east of Pearl river, in Louisiana, founded on private conveyances which have passed through the office of the commandant, but founded, as the claimant supposes, on grants lost by time or accident. No. 79. By whom claimed, Miguel Eslava; original claimant, Joaquin De Orsono; quantity claimed in feet unknown; where situated, Mobile; cultivation and inhabitation, 1800 to 1814; remarks, most of those claims of Eslava were purchased at public auction.

WILLIAM CRAWFORD,
Commissioner.

Remarks, though the original grants, upon which the preceding claims are founded, have been lost, yet it is conceived that the claims to such lots as were inhabited and cultivated under the Spanish government, or such as were built upon by permission of the Spanish authorities, ought to be confirmed.

WILLIAM CRAWFORD,
Commissioner.

Register of locations issued for confirmed claims to lots in the city of Mobile.

Date of warrant, 10th November, 1827; number of warrant, 413; number of certificate, 74; number of claim, 79; number of report, 11; quantity claimed, ; claimant, Miguel Eslava; where located, Mobile; by whom located, ; in what manner located, 7,200 square feet, including the original buildings.

U. S. LAND OFFICE, ST. STEPHEN'S, ALABAMA,
22d October, 1838.

I do hereby certify, that the annexed and foregoing transcript of the claim of Don Miguel Eslava, by Kennedy and Osborn, his attorneys and agents, included in pages 1 to 5 inclusive, is correctly copied from the book of records of claims laid before and acted on by the commissioner, William Crawford, with his report on the same, and the order of location issued by the following board of commissioners, as the same is found in this office.

Witness my hand and private seal, having no seal of office.

JAMES MAGOFFIN, [SEAL.]
Register.

Bond.

STATE OF ALABAMA,
Mobile county:

Know all men by these presents, that we, Isabella Lewis and Joseph P. Stanton, are held and firmly bound unto Miguel D. Eslava, his heirs, executors, or administrators, in the sum of five hundred dollars, for the payment of which we jointly and severally bind ourselves, our

heirs, executors, or administrators, firmly by these presents. Sealed with our seals, and dated this 27th day of May, 1846.

The condition of the above obligation is such, that whereas the above bound Isabella Lewis has applied for, and obtained an appeal to the June term, 1846, of the supreme court of Alabama, to supersede and revise a judgment recovered by the said Miguel D. Eslava, against Catharine Lewis, Barbarie Ann Billup Bardi, Danl. R. Brower and Ann B. Brower, his wife, Curtis Lewis and Isabella Lewis, his wife, John T. Lackey and Margaret Lackey, his wife, heirs and legal representatives of Robert Farmer, dec'd, at the Spring term, 1846, of the circuit court, for costs of suit. Now, if the said Isabella Lewis shall prosecute to effect her said suit in the supreme court of the said State of Alabama, and shall pay and satisfy such judgment as the supreme court shall render in the premises, then this obligation to be null and void, otherwise to be and remain in full force and effect.

ISABELLA LEWIS,
By JOHN POLLARD, *Agent*, [SEAL.]
JOSEPH P. STANTON. [SEAL.]

A true copy from the original.

A. BROOKS, *Clerk*.

In ejectment.

JOHN DOE ex dem. of Farmer's heirs
vs.
M. D. ESLAVA.

I, Augustus Brooks, clerk of the circuit court, for the county and State aforesaid, do hereby certify, that it is stated in the original bill of exceptions in this case, that every charge requested by the plaintiff's counsel of the court therein set forth was refused, which statement ought to appear in the transcript of the record, as it is a part of the record, but was omitted through mistake to be inserted in the transcript made out in the case and sent to the Supreme Court.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, this 30th May, in the year 1846.
[SEAL.]

A. BROOKS, *Clerk*.

This record is amended by consent in this: That it is agreed there is an omission in the bill of exception to state that the charges asked for (and appearing in this record) by the plaintiffs below, were refused by the court and excepted to by the plaintiff.

Tuscaloosa, 4th June, 1846.

GEORGE N. STEWART,
Atto. for deft. in error.

And at June term, 1846, of the said supreme court, came the plaintiffs in error by their attorneys, and filed their assignment of errors, which was in the words and figures following, that is to say:

Supreme court, June term, 1846.

The appellants assign for error the matters contained in the bill of exceptions.

JOHN TEST,
PHILLIPS,
For appellants.

TUSCALOOSA, 3 *June*, 1846.

And the said appellees, by their attorneys, a joinder as follows, to wit:

There is no error in the record.

G. N. STEWART & J. A. CAMPBELL.
For defendant in error.

And, on the thirtieth day of April, in the year one thousand eight hundred and forty-seven, being a day of the December term, one thousand eight hundred and forty-six, to which day the cause had been continued, in the said supreme court.

Present all the judges of said court. The following proceedings were had, to wit:

Mobile circuit court.

FARMER'S heirs
vs.
M. D. ESLAVA.

This day came said parties by their attorneys, and thereupon the record in this cause and the matter assigned for error therein, being argued and examined, it seems to the court, that in the record and proceedings of said circuit court there is no error. It is therefore considered that the judgment of said circuit court be affirmed; and that the defendant, appellee, recover of the appellants, and of Joseph P. Stanton, the security in the appeal bond, the costs of this court, and of said circuit court.

THE STATE OF ALABAMA:

I, James B. Wallace, clerk of the supreme court of the said State, do hereby certify, that the foregoing is a correct transcript of the record filed, and proceedings had in said court in the cause first above mentioned, the original of which are on file in my office, and remain of record.

In testimony whereof I have hereunto set my hand and private seal, having no seal of office, at my office in the Capitol this fifteenth day of September, in the year of our Lord one thousand eight hundred and forty-seven.

JAMES B. WALLACE,
Clerk supreme court Alabama.

Filed 24th Dec'r, 1847.